

INTERGOVERNMENTAL AGREEMENT  
AMONG  
THE STATE OF ARIZONA,  
THE CITY OF FLAGSTAFF, ARIZONA  
AND  
COCONINO COUNTY, ARIZONA

THIS AGREEMENT is entered into 08 November, 2001  
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between  
the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION  
(the "State") and the CITY OF FLAGSTAFF, ARIZONA, acting by and through its MAYOR and  
CITY COUNCIL (the "City"), and COCONINO COUNTY, ARIZONA, acting by and through its  
BOARD OF SUPERVISORS.

I. RECITALS

1. The City and the County have cooperated in the production of the *Regional Land Use and Transportation Plan* ("Plan"); and
2. The Plan calls for the development of a multi-modal transportation system including significant enhancements to the community's fixed-route transit service; and
3. A planning process has determined that fixed routes should operate, in whole or in part, on state highways in the Flagstaff region; and
4. The County and City have entered into an intergovernmental agreement to expend voter-approved sales tax receipts for the expansion of the transit system; and
5. All parties agree that transit operations on state highways in Flagstaff should take place outside of designated through-traffic lanes; and
6. The City and County believe it is fiscally prudent to test the routes during a period from October 1, 2001 until March 31, 2003 (the "test period") before making capital expenditures for bus pull outs on state highways in Flagstaff; and
7. The State is amenable to granting temporary permits for the operation of the bus pullouts on state highways in the Flagstaff region;

NOW, THEREFORE, pursuant to Arizona Revised Statutes Section 11-952, authorizing contracts among public agencies for services or the joint exercise of common powers, the parties agree as follows:

=====

NO. 25011  
Filed with the Secretary of State  
Date Filed: 11/08/01

Betsy Bayless  
Secretary of State

B. Vicky D. Harnenwald

## II. SCOPE

### 1. The State will:

- a. Issue encroachment permits to the County for the purpose of operating transit routes on State highways in the Flagstaff region. The permits will:
  - b. Extend from October 1, 2001 to March 31, 2003 for the purposes of route operations and bus stop maintenance.
  - c. Extend from June 1, 2001 to September 30, 2001 for the purposes of bus stop installation.
  - d. Include permission to stop in the following right turn lanes and shoulders on state highways in the Flagstaff region:
    - (i) Eastbound at Steves Boulevard on E. Route 66
    - (ii) Eastbound at Fanning Drive on E. Route 66
    - (iii) Westbound at Fourth Street on E. Route 66
    - (iv) Westbound at Albertson's Grocery Store located at 1416 E. Route 66
    - (v) Southbound Milton Road at Walgreen's, 1025 S. Milton Road
    - (vi) Eastbound on West Route 66 at the Radisson Hotel, 1175 W. Route 66
    - (vii) Shoulder of eastbound West Route 66 west of Midas Muffler, 1051 W. Route 66. (There is no right turn lane at this location.)
    - (viii) Shoulder of northbound U.S. Highway 89 north of the Smokerise Drive intersection
    - (ix) Shoulder of westbound W. Route 66 at the intersection with Milton Road.
  - e. Include permission to stop in no more than the following two (2) through-traffic lanes:
    - (i) Eastbound at Arrowhead Avenue at the traffic light on E. Route 66
    - (ii) Eastbound at Fourth Street at the traffic light on E. Route 66.
  - f. Permission to stop at the curb in the no-parking zone at 112 E. Route 66.
  - g. Permission to perform construction to facilitate bus stops at:
    - (i) Eastbound at the Chamber of Commerce driveway at 101 W. Route 66.
    - (ii) Eastbound at the Switzer Canyon "tank farm" across E. Route 66 from Fry's Supermarket, 201 N. Switzer Canyon Dr.
  - h. The parties may mutually agree to amend this list of bus stops in writing.
  - i. Review and approve as it deems appropriate all bus stop locations and designs submitted by the City

j. Monitor route operations, consider reports on route operations, and work with the City and County to modify bus stop locations and/or their designs to address safety concerns as they arise.

k. Pay Five Hundred Thousand Dollars (\$500,000) to the City for the construction of bus pullouts on E. Route 66, should the route attain annual ridership resulting in 40,000 rides. The terms of any such payment, including but not limited to payments over time, will be contained in a separate intergovernmental agreement to be entered into at a later date by the State and the City.

l. Issue a permit to the County for a period of no less than eight (8) years commencing March 31, 2003 for continued route operations should the route attain annual ridership resulting in 40,000 rides.

m. Issue a temporary construction easement to the City for the construction of permanent bus pullouts should the route attain annual ridership resulting in 40,000 rides.

n. The State will issue a temporary construction easement to the City for the construction of temporary bus stops at:

(i) Eastbound Chamber of Commerce driveway at 101 W. Route 66.

(ii) Eastbound Switzer Canyon "tank farm" across E. Route 66 from Fry's Supermarket, 201 N. Switzer Canyon Dr.

**2. The County will:**

a. Define performance goals for the route. The County will strive to provide a service that attracts an annual ridership that results in 40,000 rides.

b. Monitor ridership on the route for the test period and report progress on a quarterly basis.

c. Prepare a final route performance report for consideration and action by the Transit Advisory Committee in order that that body may pass a recommendation for route continuation or cessation to the Board of Supervisors. As the route will be initiated October 1, 2001, the Transit Advisory Committee may consider ridership projections based on ridership data collected during the test period.

d. Work cooperatively with the City to secure funds for the construction of the bus pullouts.

e. Conduct semi-annual boarding and alighting studies to determine the performance level of stops along the route.

f. Be responsible for the signing and maintenance of all bus stops along the route.

**3. The City will:**

a. Have the design for each pullout completed by the end of the test period. All pullout designs will be approved by the State prior to construction. The designs will be completed by March 31, 2003 or the permits for the route may be terminated by the State.

b. Have utility clearances for each pullout in place by the end of the test period. The clearances will be in place by March 31, 2003 or the permits for the route may be terminated by the State.

c. Have rights-of-way or easements for the pullouts acquired or conditional arrangements for subsequent acquisition for each pullout in place by the end of the test period. The acquisitions or conditional arrangements will be in place by March 31, 2003 or the permits for the route may be terminated by the State.

d. Take the lead in, and cooperate with the County in, pursuing the funding for approximately fourteen (14) pullouts. The current estimate of the cost for those pullouts is \$2,100,000. If the City and the County have not obtained funding of \$2,100,000 by March 31, 2003, the permits for the route may be terminated by the State.

### III. SCHEDULE

The parties agree to the following schedule of events required to implement this Agreement:

- a. July 2001: County will apply for, and State will provide, encroachment permits for work on route, including but not limited to placement of signs;
- b. September 2001: State will provide 18-month permits for transit operations;
- c. Late September 2001 County will reconfigure route signs;
- d. October 2001: The routes will be operational.

### IV. MISCELLANEOUS PROVISIONS

1. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

**State of Arizona:**

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

**Coconino County:**

Deputy County Manager  
Coconino County  
219 East Cherry Street  
Flagstaff, Arizona 86001

**City of Flagstaff:**

Assistant City Manager  
City of Flagstaff  
211 W. Aspen Avenue  
Flagstaff, AZ 86001

2. Notices of needed changes in the operations of the route for purposes of safety or efficiency will be made to all parties in writing no later than four weeks of the necessary change by mailing to:

**State of Arizona:**

Chuck Gillick  
District Traffic Engineer  
Arizona Department Engineer  
1801 S. Milton Road  
Flagstaff, AZ 86001

**Coconino County:**

Jeff Meilbeck  
Transit Division Manager  
219 East Cherry Street  
Flagstaff, Arizona 86001

**City of Flagstaff:**

Gerry Craig  
Traffic Engineering Manager  
City of Flagstaff  
211 W. Aspen Avenue  
Flagstaff, AZ 86001

3. The State assumes no liability under this Agreement. The County and the City assume full responsibility for the acquisition of right-of-way, right-of-way plans, project design, plans and specifications, reports, construction and the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to granting encroachment permits; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the County and the City, and the County and the City hereby agree to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees; by the County, any of its agents, officers and employees, or any of its independent contractors; or by the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers and employees shall include in the event of any action, court costs, expenses of litigation or attorneys fees

4. As between the County and the City, each party (as 'Indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'Indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

5. The County shall maintain general liability insurance with a limit of not less than \$20,000,000 for each occurrence with a \$40,000,000 bodily injury/property damage aggregate and a \$40,000,000 General Aggregate Limit. The Policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage with regard to the County's responsibilities under this Agreement.

6. The County's insurance shall be primary insurance as respects the City, and any insurance or self-insurance maintained by the City shall not contribute to it. The County will name the City as additional insured with respect to liability arising out of, or activities performed by, or on behalf of the County in connection with this Agreement to the full limits of liability specified in IV 5 of this Agreement.

7. The City shall maintain adequate insurance to cover any liability arising from the acts or omissions of the City's employees or agents arising out of the performance of this Agreement. The City shall not be responsible for maintaining insurance to cover liability arising from the acts or omissions of employees or agents of the County

8. This Agreement shall remain in force and effect until October 1, 2003. This Agreement may be terminated upon no less than 180-day's written notice to all parties

9. This Agreement shall become effective upon filing with the Secretary of State

10. This Agreement may be canceled pursuant to the provisions of A.R.S. § 38-511

11. Each party represents and warrants that it has full power and authority to enter into this Agreement and perform its contractual obligations and has taken all required acts or actions necessary to authorize the same

12. In the event of any controversy which may arise out of this Agreement, the parties hereto agree to abide by require arbitration as is set forth for public works contracts in A.R.S. § 12-1518.

13. The parties acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except as expressed in this Agreement, and that this Agreement constitutes the parties' entire agreement with respect to the matters addressed. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are superseded by and merged in this Agreement. This Agreement may be modified or amended only by written agreement signed by or for each party and recorded with the Secretary of State, and any such modification or amendment will become effective on the date so specified, but no earlier than the date of such recording.

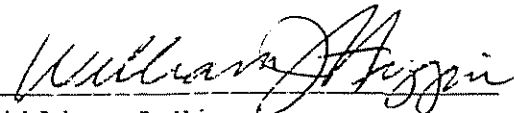
14. No party may assign or delegate any of its rights or obligations under this Agreement without first obtaining the written consent of the others.

15. In the event that a court of competent jurisdiction shall hold any part or provision of this Agreement void or of no effect, the remaining provisions of this Agreement shall remain in full force and effect.

16. No failure to enforce any condition or covenant of this Agreement shall imply or constitute a waiver of the right to insist upon performance of such condition or covenant, or of any other provision hereof, nor shall any waiver by either party of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach of this Agreement.

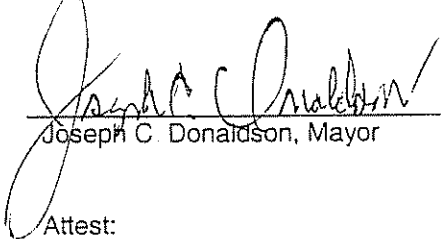
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

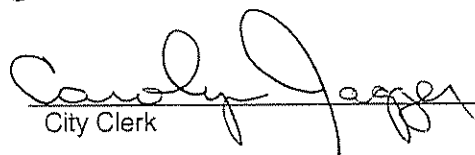
State of Arizona  
Department of Transportation

  
\_\_\_\_\_  
William J. Higgins  
Deputy State Engineer  
Attest:

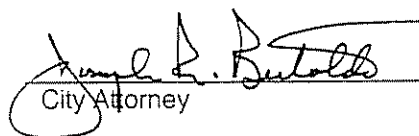
Approved as to form:

City of Flagstaff

  
\_\_\_\_\_  
Joseph C. Donaldson, Mayor  
Attest:

  
\_\_\_\_\_  
Carolyn Jager  
City Clerk

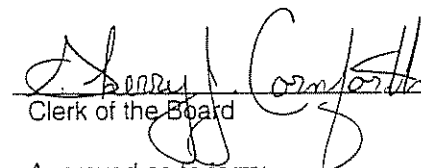
Approved as to form:

  
\_\_\_\_\_  
Joseph L. Butts  
City Attorney

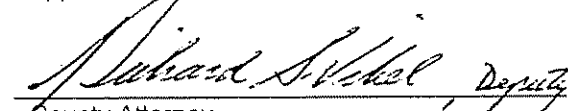
Coconino County

  
\_\_\_\_\_  
Paul J. Babbitt,  
Chairman of its Board of Supervisors

Attest:

  
\_\_\_\_\_  
Henry Cornforth  
Clerk of the Board

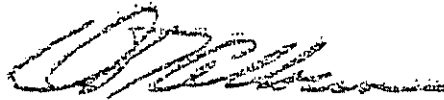
Approved as to form:

  
\_\_\_\_\_  
Richard S. Michel, Deputy  
County Attorney

RESOLUTION

BE IT RESOLVED on this 22nd day of July 2001, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona, that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Flagstaff and Coconino County for the purpose of defining responsibilities for establishing transit bus stops

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the State Traffic Engineer for approval and execution.

A handwritten signature in dark ink, appearing to read 'David R. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director



NOTE

IN ACCORDANCE WITH PROVISIONS OF THE ARIZONA REVISED STATUTES AND THE FLAGSTAFF CITY CHARTER THE SUMMARIZED MINUTES OF CITY COUNCIL MEETINGS ARE NOT VERBATIM TRANSCRIPTS. ONLY THE ACTIONS TAKEN AND DISCUSSION APPEARING WITH QUOTATION MARKS ARE VERBATIM. TAPE RECORDINGS OF CITY COUNCIL MEETINGS ARE ON FILE IN THE CITY CLERK'S OFFICE.

**SUMMARIZED MINUTES  
SPECIAL COUNCIL MEETING**

July 30, 2001

A Special Meeting of the Flagstaff City Council was held on July 30, 2001, at 4:00 P.M., in the Council Chambers at City Hall, 211 West Aspen Avenue, Flagstaff, Arizona. The Special Meeting was called to order by Mayor Donaldson. On roll call, the following were present:

Mayor Donaldson

Vice-Mayor Cooper  
Councilmember Edgar  
Councilmember Jeffery, Excused  
Councilmember Silva  
Councilmember Trovillion, Excused  
Councilmember White

Also present were:

City Manager, Dave Wilcox  
City Attorney, Joe Bertoldo

Consideration of RESOLUTION NO. 2001-61: A resolution authorizing the City of Flagstaff to enter into an Intergovernmental Agreement with Coconino County and the Arizona Department of Transportation for the purposes of transit delivery service.

RECOMMENDED ACTION: Read RESOLUTION NO. 2001-61 by title only  
ADOPT RESOLUTION NO. 2001-61.

Councilmember Silva moved to read Resolution No. 2001-61 by title only, seconded by Vice-Mayor Cooper. The motion passed on unanimous vote and title was read as follows:

RESOLUTION NO. 2001-61

A resolution authorizing the City of Flagstaff to enter into an Intergovernmental Agreement with Coconino County and the Arizona Department of Transportation for the purposes of transit delivery service

Councilmember Silva moved to adopt Resolution No. 2001-61. The motion was seconded by Councilmember White and passed on unanimous vote.



OFFICE OF THE BOARD OF SUPERVISORS  
COCONINO COUNTY, FLAGSTAFF, ARIZONA  
MONDAY, JULY 30, 2001

The Board of Supervisors met in special session at 10:30 am on Monday, July 30, 2001, in the Board of Supervisors Meeting Room, First Floor, Administrative Center, 219 E. Cherry Avenue, Flagstaff, Arizona.

PRESENT: Paul J. Babbitt, Chairperson; Elizabeth Archuleta, Matthew G. Ryan and Deborah Hill. Members: Dora Harrison, County Manager; Anna Whorton, Chief Deputy Clerk of the Board; Sherry Cornforth, Deputy Clerk. Record will reflect the absence of Supervisor Louise Yellowman.

CALL TO ORDER: the meeting was called to order at 10:37 am.

CONSENT ITEMS:

1. Community Development: Set for hearing August 20, 2001, 6:00 p.m.
  - 1) Z-01-7: Cox and others, Blue Ridge
  - 2) AM-01-4: Amendment for large retail establishments
  - 3) Flagstaff area Regional Land Use & Transportation Plan
  - 4) Uniform Building codes, National Electric Code, and building permit fees

It was moved by Supervisor Ryan, seconded by Supervisor Hill, to set the listed public hearings for August 20 at 6:00 pm. Motion carried unanimously.

2. Community Services: Approve InterGovernmental Agreement between Coconino County, the City of Flagstaff, and ADOT

Transit Division Manager Meilbeck requested Board approval of the proposed InterGovernmental Agreement. He said the City Council will consider the issue at a special meeting on Monday July 30, and upon approval by ADOT the new bus route will be established as soon as possible. There will be an 18-month trial period of the route, from October 2001 through March 2003. If ridership reaches 40,000 in that time period, permanent bus pullouts will be constructed on Route 66. Meilbeck said the IGA gives the County some flexibility to evaluate the success of the route and its various stops before the approximately \$2.1 million capital investment in pull-outs is made. The City transit tax expires in 8 years, so the permit to use state highways to run the route will expire at the same time.

It was moved by Supervisor Ryan, seconded by Supervisor Archuleta, to approve the IGA. Motion carried unanimously.

There being no further business, the meeting adjourned at 10:45 am.

COCONINO COUNTY BOARD OF SUPERVISORS

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Paul J. Babbitt, Chairman

ATTEST:

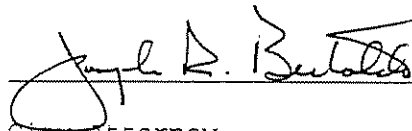
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Clerk of the Board

APPROVAL OF THE FLAGSTAFF CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION. and the CITY OF FLAGSTAFF AND COCONINO COUNTY and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

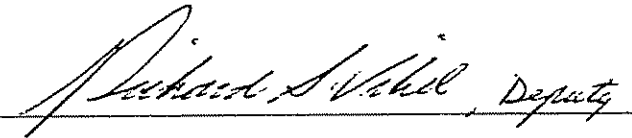
DATED this 23<sup>rd</sup> day of August, 2001.

  
\_\_\_\_\_  
City Attorney

APPROVAL OF THE COCONINO COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and COCONINO COUNTY and the CITY OF FLAGSTAFF and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona

DATED this 5th day of SEPTEMBER, 2001.

  
\_\_\_\_\_ Deputy

County Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

TRN Main: (602) 542-1680  
Direct: (602) 542-8855  
Fax: (602) 542-3646

MAIN PHONE: (602) 542-5025  
FACSIMILE: (602) 542-4085

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR01-1499TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED October 29, 2001.

JANET NAPOLITANO  
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", is written over a horizontal line.

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:ggt

Enc.